

April 14, 2020

**VIA ECF AND EMAIL**

Honorable Stuart M. Bernstein  
United States Bankruptcy Court  
Southern District of New York  
One Bowling Green, Room 723  
New York, NY 10004-1408

**Re: Picard v. Mann, et al.,  
Adv. Proc. No. 10-04390 (SMB)**

Dear Judge Bernstein:

We are counsel to all the defendants in the above-titled adversary proceeding, and we are writing to respectfully request approval of short extensions of the deadlines for various pre-trial proceedings. Counsel for the plaintiff, Trustee Irving H. Picard, Esq., has courteously consented to this request.

As the Court may recall, the Trustee submitted a letter to the Court on March 23, 2020 (Adv. Proc. ECF No. 189) (copy is **Attachment A** hereto for the Court's ease of reference), advising the Court of the parties' joint request, in light of the uncertainties created by COVID-19, to adjourn the final pre-trial conference (then scheduled for March 25, 2020) to May 27, 2020, and also to schedule related pre-trial matters that normally precede a final pre-trial conference. As noted in the Trustee's March 23<sup>rd</sup> letter, as of that time defendants' counsel did not have access to our office files and we reserved the right to ask the Court for changes in the pre-trial schedule if we did not obtain office access in the near future. We still do not have access to our office, which has the defendants' only copies of records and reports needed to prepare and exchange the various lists and other documents required in the Pre-Trial Order. Consequently, we wrote the Trustee asking for his consent to our request to the Court for short extensions of approximately one month for the final pre-trial conference and the preceding pre-trial deadlines. The Trustee has courteously agreed to our request for these deadline extensions, and has further offered to provide defendants with copies of any reports, documents or other materials the defendants request so that further preparation of the requisite pre-trial materials can promptly begin during the additional time. We will be taking the Trustee up on his offer, and anticipate forwarding to the Trustee in the near future a list of the reports and materials we need.

Consequently, with the consent of the Trustee, the defendants respectfully request that the Court adjourn the pre-trial conference until a date convenient to the Court on or about Wednesday, July 1, 2020. As noted in the Trustee's March 23<sup>rd</sup> letter, at that conference, the Court and counsel can evaluate the feasibility of

a trial and/or arrangement necessary to conduct the trial via video, teleconferencing, or some other means approved by the Court.

In addition, also with the consent of the Trustee, the defendants propose the following schedule for pre-trial matters:

Pretrial Activity	Deadline
Parties to Exchange Draft Joint Pre-Trial Order ( <i>45 Days Prior</i> )	Friday, May 15, 2020
Parties to Exchange Exhibits and Deposition Designations ( <i>30 Days Prior</i> )	Friday, May 29, 2020
Objections to Exhibits and Deposition Designations to be Exchanged ( <i>14 Days Prior</i> )	Monday, June 15, 2020
Motions in <i>Limine</i> Filed ( <i>14 Days Prior</i> )	Wednesday, June 17, 2020
Oppositions to Motions in <i>Limine</i> Filed ( <i>7 Days Prior</i> )	Wednesday, June 24, 2020
Submit Final Joint Pre-Trial Order to Judge Bernstein's Chambers ( <i>7 Days Prior</i> )	Wednesday, June 24, 2020
Proposed Pre-Trial Conference Date	Wednesday, July 1, 2020

In light of the Trustee's offer to produce to us copies of reports and other documents we request to prepare the pre-trial materials, we do not anticipate problems with the above schedule. Nonetheless, if unanticipated events impact the schedule, defendants do not waive the right to raise those events and request further changes from this Court.

Counsel for the defendants is available should Your Honor have any questions in connection with the foregoing.

Respectfully submitted,



Arthur H. Ruegger

AR:io  
Attachment

cc: Nicholas J. Cremona, Esq. (Email)  
David J. Sheehan, Esq. (Email)  
Kevin H. Bell, Esq. (Email)  
Nathanael S. Kelley, Esq. (Email)  
Carole Neville, Esq. (Email)

# ATTACHMENT A

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March 23, 2020

## VIA ECF AND EMAIL

Honorable Stuart M. Bernstein  
United States Bankruptcy Court  
Southern District of New York  
One Bowling Green, Room 723  
New York, NY 10004-1408

*Re: Picard v. Michael Mann, Adv. Pro. No. 10-04390 (SMB)*

Dear Judge Bernstein:

We are counsel to Irving H. Picard, Esq., the Trustee for the substantively consolidated liquidation proceedings of Bernard L. Madoff Investment Securities LLC (“BLMIS”) and the estate of Bernard L. Madoff under the Securities Investor Protection Act, 15 U.S.C. § 78aaa *et seq.* The final pre-trial conference in the above-referenced adversary proceeding has been scheduled for March 25, 2020 (ECF No. 187) to address the sole remaining issue of disputed fact identified in this Court’s memorandum decision granting the Trustee relief under Rule 56(g): whether the Two-Year Transfers were transfers by BLMIS within the meaning of SIPA § 78fff-2(c)(3) and 11 U.S.C. § 548 (a)(1)(A). (ECF Nos. 174, 175).

Given the uncertainty created by COVID-19, the Trustee’s counsel has conferred with counsel for the Defendants, and the parties jointly respectfully request that the Court adjourn the pre-trial conference until May 27, 2020. The parties will use this time to complete all pre-trial matters. On May 27, the Court and the parties can evaluate the feasibility of a trial and/or arrangements necessary to conduct the trial via video, teleconferencing, or some other means approved by the Court.

On consent, the parties also jointly propose the following schedule for pre-trial matters:

Pretrial Activity	Deadline
Parties to Exchange Draft Joint Pre-Trial Order ( <i>45 Days Prior</i> )	Monday, April 13, 2020

Atlanta Chicago Cincinnati Cleveland Columbus Costa Mesa Denver  
Houston Los Angeles New York Orlando Philadelphia Seattle Washington, DC

Honorable Stuart M. Bernstein

March 23, 2020

Page 2

Parties to Exchange Exhibits and Deposition Designations <i>(30 Days Prior)</i>	Monday, April 27, 2020
Objections to Exhibits and Deposition Designations to be Exchanged <i>(14 Days Prior)</i>	Monday, May 11, 2020
Motions in <i>Limine</i> Filed <i>(14 Days Prior)</i>	Wednesday, May 13, 2020
Oppositions to Motions in <i>Limine</i> Filed <i>(7 Days Prior)</i>	Wednesday, May 20, 2020
Submit Final Joint Pre-Trial Order to Judge Bernstein's Chambers <i>(7 Days Prior)</i>	Wednesday, May 20, 2020
Proposed Pre-Trial Conference Date	Wednesday, May 27, 2020

Counsel for the Defendants, however, currently do not have access to their office files, and request the right to apply to the Court for changes to the proposed schedule in the event access to those files is not obtained in the near future.

Counsel for the Trustee is available should Your Honor have any questions in connection with the foregoing.

Respectfully submitted,

/s/ *Nicholas J. Cremona*

Nicholas J. Cremona  
Partner

cc: Arthur H. Ruegger, Esq. (Email)  
David J. Sheehan, Esq. (Email)  
Kevin H. Bell, Esq. (Email)  
Nathanael S. Kelley, Esq. (Email).